

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

CHRISTOPHER WICKHAM,  Petitioner,   vs.  CLINT FRIEL,  Respondent.	MEMORANDUM DECISION AND ORDER DENYING PETITIONER’S APPLICATION FOR CERTIFICATE OF APPEALABILITY    Case No. 2:03-CV-595 TS
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On July 3, 2003, Petitioner filed an Application for Habeas Corpus Under 28 U.S.C. § 2254.<sup>1</sup> The Court denied Petitioner’s Application on March 28, 2005.<sup>2</sup> Petitioner filed an appeal on April 6, 2005,<sup>3</sup> and now seeks a Certificate of Appealability (“COA”). For the reasons discussed below, the Court will deny Plaintiff’s Motion.

A COA can issue only “if the applicant has made a substantial showing of the denial of a constitutional right.”<sup>4</sup> “A petitioner satisfies this standard by demonstrating that jurists of reason

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<sup>1</sup>Docket No. 1.

<sup>2</sup>Docket No. 22.

<sup>3</sup>Docket No. 23.

<sup>4</sup>28 U.S.C. § 2253(c)(2).

could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.”<sup>5</sup> “The COA determination under § 2253(c) requires an overview of the claims in the habeas petition and a general assessment of their merits.”<sup>6</sup> “This threshold inquiry does not require full consideration of the factual or legal bases adduced in support of the claims. In fact, the statute forbids it.”<sup>7</sup> While Petitioner is not required to prove the merits of his case, he must demonstrate “something more than the absence of frivolity or the existence of mere good faith” on his part.<sup>8</sup>

Petitioner has applied for a COA on the following issues: (1) period of limitations under 28 U.S.C. § 2244; (2) ineffective assistance of counsel; and (3) newly discovered material evidence. The Court discussed each of these issues in its March 28, 2005 Order.<sup>9</sup> Petitioner's Application for Certificate of Appealability merely rehashes the issues the Court addressed at length in resolving Petitioner's § 2254 Application. The Court finds that Petitioner has failed to make any showing of the denial of a constitutional right and Petitioner has failed to show that jurists of reason could disagree with the Court's resolution of Petitioner's Application.

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<sup>5</sup>*Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

<sup>6</sup>*Id.* at 336.

<sup>7</sup>*Id.*

<sup>8</sup>*Id.* at 338.


<sup>9</sup>Docket No. 22.

It is therefore

ORDERED that Petitioner's Application for Certificate of Appealability (Docket No. 26)  
is DENIED.

DATED March 3, 2006.

BY THE COURT:

  
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TED STEWART  
United States District Judge